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HD **Spanish firm sues Metro Vancouver over firing from wastewater plant project; Engineering company accuses officials of 'capricious' behaviour, seeks $250-million in lawsuit**

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VANCOUVER

The Spanish engineering company that was terminated by Metro Vancouver in January as the builder of North Vancouver's wastewater treatment plant is suing for $250-million, saying it was given an impossible job by the regional district.

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In a 98-page statement of claim, Acciona Wastewater Solutions LP – a subsidiary in the Acciona family of companies – says Metro Vancouver officials chose a site that was too small, demanded hundreds of changes, and acted in a "capricious, high-handed and arbitrary manner" as the company tried constantly to adapt to them.

Metro Vancouver's chief administrative officer Jerry Dobrovolny initiated a three-month termination notice with Acciona last fall after the company asked for an extension of the project's completion date to 2025. The completion date had already been moved to September, 2023, from January, 2021, after the company successfully argued that the difficulties with design required it. The budget also increased from the original $504-million, later amended to $626-million, to more than $1-billion.

Metro Vancouver issued a statement defending its decision last year to give the company notice that it was being terminated from the project, though it hasn't had time to file a statement of defence to the lawsuit yet.

"Metro Vancouver is confident that its decision to terminate was justified. Metro Vancouver will defend against Acciona's claims, including the unfounded allegations of misconduct," it said. "Metro Vancouver is working collaboratively with the new contractor, PCL Constructors Westcoast Inc., and the new designer, AECOM, to develop a new plan to complete the project, including a revised project budget and schedule."

Acciona's lawsuit has some similarities to a 1.1-billion-Australian-dollar ($1-billion) suit that Acciona filed against the government of New South Wales in Australia over a light-rail project in 2018, where it said it had been induced to bid on a contract that constituted "false and deceptive" conduct by the transit authority.

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There, it said the company was given incorrect information by the government about how the underground electrical infrastructure would work. In 2019, the government agreed to a settlement of 576 million Australian dollars with the consortium, including Acciona, involved in the transit line.

In the lawsuit against Metro Vancouver's sewage district, the company's statement says that it was not provided with accurate information during the bid process about soil conditions on the North Vancouver site, which is on low-lying ground next to Burrard Inlet and at risk of soil liquefaction during an earthquake.

"In the course of conducting its subsurface geotechnical investigations, Acciona discovered that the actual subsurface geotechnical conditions on the project site were materially different from the conditions disclosed in the documents provided to Acciona in the RFP [request for proposal] process."

There were other problems, the company's claim said. "Acciona began to discover numerous other errors, inconsistencies and impossibilities in the design and construction specifications."

Finally, the district's "conduct in terminating the [project agreement] was reprehensible and constitutes misconduct," said the claim, which includes a demand for $95-million that it says was due last year for work already completed and $50-million back from a company credit fund from which the district withdrew money.

Acciona is also claiming that Metro Vancouver took valuable information the company had provided about changes needed to make the project viable and passed it on to other companies as it looked elsewhere for someone to finish the plant.

Acciona is a major global company that has built wastewater treatment plants and large infrastructure projects in many countries. It is also part of consortiums building Vancouver's Broadway SkyTrain extension and the new Pattullo Bridge from New Westminster to Surrey in B.C.

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